

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

UNITED STATES OF AMERICA,	:	
Plaintiff,	:	
v.	:	Case No. 3:18-cr-185
ANTHONY PRESTON, SR.,	:	Judge Walter H. Rice
Defendant.	:	

ORDER OVERRULING MOTION (DOC. #56) AND SUPPLEMENTAL MOTION (DOC. #58) FOR COMPASSIONATE RELEASE OF DEFENDANT ANTHONY PRESTON, SR. AS MOOT GIVEN DEFENDANT IS NO LONGER INCARCERATED

Before the Court are the Motion (Doc. #56) and Supplemental Motion (Doc. #58) for Compassionate Release of Defendant Anthony Preston, Sr. On February 20, 2020, Defendant was sentenced to forty-eight months imprisonment after pleading guilty to two counts from the First Superseding Information. (Judgment, Doc. #45, citing Information, Doc. #35). On September 22, 2020, and April 5, 2021, Defendant filed the Motion and Supplemental Motion, respectively, under 18 U.S.C. § 3582(c)(1)(A), as amended by the Formerly Incarcerated Reenter Society Transformed Safely Transitioning Every Person Act ("First Step") Act of 2018, Pub. L. 115-391, 132 Stat. 5194. While the Motion and Supplemental Motion were pending, Defendant was released on December 6, 2021.¹ A case becomes

¹ https://www.bop.gov/mobile/find_inmate/index.jsp#inmate_results (last accessed Jun. 28, 2024).

moot if “the issues presented are no longer ‘live’ or the parties lack a legally cognizable interest in the outcome.” *Murphy v. Hunt*, 455 U.S. 478, 481 (1984) (citation omitted). A motion for compassionate release seeks relief not from the judgment *in toto*, but from the confinement imposed as part of the judgment. “When a prisoner is released from custody, the motion for compassionate release becomes moot because there is no further relief this Court can provide[.]” *United States v. Sanchez*, No. 16-cr-2077, 2021 WL 5999764, *1 (S.D. Cal. Dec. 17, 2021) (collecting cases), and there is no longer a “live” and redressable issue pending before the Court. *See, e.g., United States v. Hernandez*, 845 F. App’x 921, 921 (11th Cir. 2021) (*per curiam*) (“Completion of a prison term moots a challenge to the term of confinement.”).

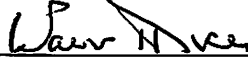
As Defendant has completed his term of confinement, his Motion no longer presents a live case or controversy, and the Court is without jurisdiction to hear it. U.S. Const. art. III § 2. Accordingly, the Motion is OVERRULED AS MOOT.²

The captioned case remains terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

² Also, the Court, having considered the factors for granting compassionate release set forth in *United States v. Tomes*, 990 F.3d 500, 502 (6th Cir. 2021), concludes that Defendant would not have been eligible for release while he was incarcerated, as Defendant conceded that he was “not currently suffering from any chronic illnesses,” and did not indicate any health issues that would have made him unusually susceptible to contracting COVID-19. (Doc. #58, PAGEID 353).

IT IS SO ORDERED.

June 28, 2024



WALTER H. RICE, JUDGE
UNITED STATES DISTRICT COURT